STATE OF CALIFORNIA | Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: May 3, 2011

To: The Commission
(Meeting of May 5, 2011)

From: Edward Randolph, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 379 (Fuller) – Telecommunications Policies.**
As amended: April 25, 2011

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: OPPOSE

SUMMARY OF BILL:

SB 379 would add new subsection (c) to PU Code Sec. 709 "Statement of Telecommunications Policy". The new subsection would state that it is the policy of California to provide universal service subsidies to any California telephone corporation operating in rural areas and subject to rate of return regulation.

SB 379 would also amend the current Sec. 709 (e) which now states it is the policy of the State "To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure." The subsection is amended to state that California policy should "facilitate" adequate long-term investment in the necessary infrastructure.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

The CPUC opposes locking into statute a commitment of the government to subsidize California rate of return rural telephone corporations as proposed in new subsection 709 (c). A statutory mandate to perpetually provide government subsidies to rate of return telephone corporations in California at a time of major transition in the telecommunications industry is not sound public policy.

The State's current high-cost support mechanism is nearly two decades old and could become out of synch with the needs of the public with major technological and market competition developments. Given the changes in the voice communication landscape, the need to treat small rural carriers as monopolies and use of rate-of-return regulation is less appropriate than in the past and in the future may not be an efficient mechanism to guarantee modern and affordable telecommunication services in rural areas. By locking the high cost support for ROR ILECs into policy, the bill could hinder any efforts by the CPUC to make changes to the CHCF-A program as it views necessary in light of changes in technology, the market and competition.

The CPUC is expected to undertake a comprehensive review of the high cost support subsidy mechanisms for the small rural carriers in the near future. The aim is to develop a more efficient, prudent, and forward-looking plan for rural consumers that will reflect realities of the market place and technological advancements to safeguard California ratepayers. This bill could impede the ability of the CPUC to modify the program in the public interest.

SUMMARY OF SUGGESTED AMENDMENTS:

None.

DIVISION ANALYSIS (Communications Division):

Current PU Code Section 275.6 requires the CPUC to provide universal service support to rural rate of return ILECs in California. This section, which authorizes the California High Cost Fund-A, expires on January 1, 2013. The CPUC currently provides these carriers high cost support via the CHCF-A program which is funded by an all end-users surcharge on intrastate telecommunications billings.

The California High Cost program was established in 1987[1]. At the time, landline telephone was the only widely available and affordable mode of voice communication in rural areas. In an effort to help keep the costs of rural service affordable, the CPUC authorized these monopoly companies to set rates at an affordable level, but offset the high cost of providing service through a subsidy from the CHCF-A. Today, new technologies such as Internet Protocol and wireless telephony technologies compete with wireline Plain Old Telephone Service (POTS) as viable alternative options for voice service.

The following incumbent local exchange carriers are currently still regulated under rate of return regulation: Calaveras Telephone Company, California-Oregon Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Frontier Communications West Coast Inc., Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, The Volcano Telephone Company, and Winterhaven Telephone Company. These ILECs are Carriers of Last Resort and currently receive state high cost support

[1] In 1996 the Commission created the California High Cost Fund-B (CHCF-B) and changed the name of the original high cost fund to CHCF-A. The CHCF-B was created to provide universal service subsidy support for the larger carriers.

from the CHCF-A program. This bill would essentially require the high cost support to continue until these carriers are no longer regulated under rate of return regulation.

The Federal Communications Commission (FCC) is proposing to move away from its current high cost subsidy mechanism, which it deems as inefficient, wasteful, and outdated, to a forward looking Connect America Fund plan.[2] The effects of this transition on telephony services in high cost areas of California will require further consideration. This bill may hinder the CPUC's ability to modify the CHCF-A program as necessary in light of any federal changes to federal universal service policy.

At the state level, the CPUC is expected to undertake a comprehensive review of the high cost support subsidy mechanisms for the small rural carriers in the near future. The purpose of the review is to develop a more efficient, prudent, and forward-looking plan for rural consumers that will reflect realities of the market place and technological advancements to safeguard California ratepayers. This bill could hinder the CPUC's ability to change the CHCF-A program to reach these goals.

In a separate proceeding, the CPUC is also redefining "basic telephone service", and considering whether to expand the basic service definition to include advanced services.[3] While this proceeding is active, this proposed bill may be a hindrance to the CPUC's efforts to redefine basic services.

PROGRAM BACKGROUND:

Current PU Code Section 275.6 requires the CPUC to provide universal service support to rural rate of return ILECs in California. This section, which authorizes the CHCF-A, expires on January 1, 2013.[4]

The following telephone corporations currently receive state high cost support from the CHCF-A program. 2011 draws are as follows:

Calaveras Telephone Co. $2,248,838.31
Cal-Ore Telephone co. $676,586.93
Ducor Telephone Co. $2,517,691.82
Foresthill Telephone Co. $1,790,534.21
Kerman Telephone Co. $3,599,933.59
Pinnacles Telephone Co. $123,487.37
Ponderosa Telephone Co. $4,485,752.89
Sierra Telephone Co. $14,903,838.44
Siskiyou Telephone Co. $4,158,094
Volcano Telephone Co. $3,712,286.72

Total $38,217,044.28

[2] http://www.fcc.gov/Daily_Releases/Daily_Business/2011/db0209/FCC-11-13A1.pdf
[3] http://www.cpuc.ca.gov/NR/rdonlyres/0728EB84-4751-4ACC-9956-D1664DD9FE15/0/appendix_2.pdf
[4] http://www.cpuc.ca.gov/PUC/Telco/Public+Programs/chcfa.htm

The CHCF-A surcharge is currently zero. The current CHCF-A Cash Balance is $60.8 million.

LEGISLATIVE HISTORY:

The Federal Communications Commission is currently considering elimination of two key sources of funds for these carriers – access charge revenues and federal universal service high cost support.

FISCAL IMPACT:

None.

STATUS:

SB 379 is currently awaiting a floor vote in the Senate.

SUPPORT/OPPOSITION:

Support:

California's Independent Telecommunications Companies (sponsor)
Division of Ratepayer Advocates (if amended)

Opposition:

None on file

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BILL LANGUAGE:

BILL NUMBER: SB 379 AMENDED
BILL TEXT

AMENDED IN SENATE APRIL 25, 2011
AMENDED IN SENATE MARCH 25, 2011

INTRODUCED BY Senators Fuller and Cannella
(Coauthors: Senators Berryhill, La Malfa, Rubio, and Vargas)

FEBRUARY 15, 2011

An act to amend Section 709 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 379, as amended, Fuller. Telecommunications policies.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined. Existing law declares the policies for telecommunications for California, including ~~: (1)~~ to continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians ~~; (2) to focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact; and (3) to promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure~~ .

This bill would ~~instead~~ declare the policies for telecommunications for California ~~, including~~ *to include* : (1) to continue our universal service commitment by ensuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians; ~~(2) to focus efforts on providing public safety institutions, educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications and information services in recognition of their economic and societal impact; (3) to promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced telecommunications and information technologies by facilitating adequate long-term investment in the necessary infrastructure throughout the state, including in rural areas; and (4)~~ *and (2)* to continue universal service rate support for telephone corporations subject to rate-of-return regulation by the commission for the purpose of providing rural areas of the state with access to telecommunications services.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 709 of the Public Utilities Code is amended to read:

709. The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:

(a) To continue our universal service commitment by ensuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.

(b) To focus efforts on providing ~~public safety institutions,~~ educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications ~~and information~~ services in recognition of their economic and societal impact.

(c) To continue universal service rate support for telephone corporations subject to rate-of-return regulation by the commission for the purpose of providing rural areas of the state with access to telecommunications services.

(d) To encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer needs and encourages the ubiquitous availability of a wide choice of state-of-the-art services.

(e) To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(f) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced ~~telecommunications and information~~ *information and communications* technologies by facilitating adequate long-term investment in the necessary infrastructure ~~throughout the state, including in rural areas~~ .

(g) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.

(h) To remove the barriers to open and competitive markets and promote fair product and price competition in a way that encourages greater efficiency, lower prices, and more consumer choice.

(i) To encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems.